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STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE

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MAR 18 1997

March 14, 1997

William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, NW
Washington, D.C. 20554

RE: Common Carrier Bureau Request for Further Comment on
Specific Questions in CPNI Rulemaking, CC Docket 96-
115; DA 97-385

Dear Secretary Caton:

The New York State Department of Public Service (NYDPS) submits this letter in response to the Common Carrier Bureau's request for further comment in the above proceeding. Specifically, the Bureau seeks comment relating to the interplay between the Section 222 customer proprietary network information protections (CPNI) and the Section 272 Bell Operating Company (BOC) separate affiliate safeguards, as well as the relationship between Section 222 and Section 274 (BOC electronic publishing provisions) of the Telecommunications Act of 1996.

We urge the Commission to ensure strong CPNI safeguards to protect the privacy of customers. In particular, we are concerned that the questions in Section I.B. of the Notice suggest that the Bureau is at least considering in the CPNI proceeding whether a carrier may obtain customer approval to use, disclose or permit access to that customer's CPNI absent an affirmative request. The NYDPS believes that except for the exemptions permitted under Section 222(d), a carrier's release of CPNI should be permitted only where the customer grants verifiable affirmative consent.

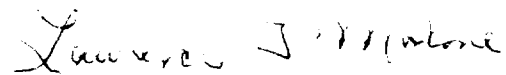
Moreover, whatever limitations the Commission ultimately decides to impose on the use of CPNI should apply equally to all carriers, including the BOCs and their affiliates. This will

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assure that BOC competitive ventures do not have an unfair advantage over other service providers, simply because they have greater access to CPNI. The New York Public Service Commission's CPNI protections do, in fact, apply to all intrastate carriers in this manner. We recommend that the Commission consider a similar structure.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lawrence G. Malone".

Lawrence G. Malone
Acting General Counsel